

Supreme Court of Kentucky

IN RE:
EMERGENCY ORDER AMENDING
RULES OF THE SUPREME COURT (SCR)

2014-03

Pursuant to CR 87(2), the Court hereby orders that the following rule amendment to SCR 4.300, Canon 5(B)(1)(c) shall become effective February 24, 2014.

**CANON 5: A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM
INAPPROPRIATE POLITICAL ACTIVITY**

B. Campaign Conduct.

(1) A judge or candidate for election to judicial office:

(c) shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office; and shall not misrepresent any candidate's identity, qualifications, present position, or other facts.

Commentary

The making of a pledge, promise or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result. Pledges, promises, or commitments must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Section 5B(1)(c) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating Section 5B(1)(c), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualifications.

All sitting. All concur.

ENTERED: February 21, 2014.


CHIEF JUSTICE